



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: P-B Engineering Co.

File: B-229739

Date: January 25, 1988

DIGEST

1. Failure of a bidder to sign a bid bond in the capacity of principal constitutes a minor informality that can be waived where the unsigned bond is submitted with a signed bid.
2. Protester's new and independent grounds of protest are dismissed where the later raised issues do not independently satisfy the timeliness rules of General Accounting Office's Bid Protest Regulations.

DECISION

P-B Engineering (PBE) protests award of a contract to Century Enterprises under invitation for bids (IFB) No. N62474-86-B-6536 issued by the Naval Facilities Engineering Command. PBE contends that Century's bid for the repair and lining of a two million gallon tank should have been rejected as nonresponsive.

We deny the protest in part and dismiss it in part.

In accordance with the IFB, Century submitted a bid bond on a standard form (SF) 24. The SF 24 instructions request that "the full legal name and business address of the Principal" be inserted in the appropriate block and provide that an "authorized person shall sign the bond." Century's bond was complete with the exception of its failure to include the signature of its principal. Since Century also submitted a signed bid form, the Navy deemed the failure to sign the bond as a minor informality, relying upon Federal Acquisition Regulation (FAR) § 14.405 (FAC 84-12). Century's bid was lowest, but no award was made prior to the filing of the protest.

PBE, the second low bidder, simply asserted in its original protest that Century's bid should have been rejected for the lack of its signature on the bid bond. In its comments to

the Navy's administrative report, PBE continued to urge that waiver was inappropriate since the deficiency noted was not listed as waivable in FAR § 28.101-4 (FAC 84-29) and failure to furnish a bid guarantee in accordance with the IFB requirements mandates rejection of the bid pursuant to FAR § 14.404-2(i) (FAC 84-5). As support for that position, PBE noted that a bid which it had submitted in response to an Air Force solicitation had been rejected in July 1987 for a similar failure to sign a bond. For the first time, PBE also raised other alleged deficiencies in Century's bid. It alleged that there was no showing that the person who signed the bid was authorized to do so; that the designation of the signer as "owner" was inconsistent with Century's designation, elsewhere in the bid, of itself as a partnership; and that Century failed to designate the person responsible to the government in its "Certificate of Independent Price Determination." PBE claims to have been unaware of these irregularities until it received Century's bid documents with the Navy's report.

The Navy is correct that the absence of a principal's signature on a bid bond is a minor informality that can be waived where the unsigned bond is submitted with a signed bid, as is the case here. Allen County Builders Supply, 64 Comp. Gen. 505, 506 (1985), 85-1 CPD ¶ 507; Geronimo Service Co., B-209613, Feb. 7, 1983, 83-1 CPD ¶ 130; Forest Service Request for Advance Decision, B-186926, July 21, 1976, 76-2 CPD ¶ 66; see also FAR § 14.405 (example of minor informality in bid is unsigned bid when accompanied by signed bid bond). Even though the SF 24 instructions require the principal's signature, we do not regard those instructions as a material bond requirement with which a bidder must comply in order to be responsive. See General Ship and Engine Works, Inc., 55 Comp. Gen. 422, 423 (1975), 75-2 CPD ¶ 269. Thus, the Navy was not required to reject Century's bid pursuant to FAR § 14.404-2(i) for noncompliance with the IFB requirements.^{1/}

The failure of the Air Force to waive the absence of a signature on a bid bond in a similar situation does not change our conclusion. Even assuming the factual situations to be identical, the erroneous rejection of a bid in a prior

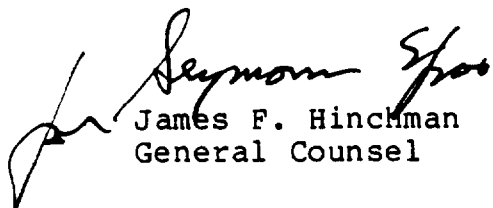
^{1/} PBE has also asserted that the cases on which the Navy relied are inapposite to its decision to waive because they predate the FAR. In response, we note that Allen County Builders Supply, *supra*, post dates the FAR and supports the Navy's decision. We further note that the provisions of FAR §§ 14.404-2(i), 14.405 and 28.101-4 are virtually identical to the corresponding provisions of regulations in effect before the FAR.

procurement does not estop a government agency from accepting a responsible bidder's low, responsive bid, since it is required to do so by law. FAR § 14.407-1(a) (FAC 84-8); T.L. Furr Construction Co., B-226118, May 6, 1987, 87-1 CPD ¶ 483 at 3. If the Air Force was in error in the prior solicitation, PBE was free to protest the propriety of the rejection of its bid at that time.

PBE's newly raised protest contentions are too late. Our Bid Protest Regulations require that a protest be filed within 10 working days after the basis of the protest is known or should have been known. 4 C.F.R. § 21.2(a)(2) (1987). Where a protester initially files a timely protest, and later supplements it with new and independent grounds of protest, the later raised allegations must independently satisfy the timeliness requirements. See Little Susitna Company, 65 Comp. Gen. 651 (1986), 86-1 CPD ¶ 560; Universal Shipping Company, Inc., B-223905.2, Apr. 20, 1987, 87-1 CPD ¶ 424. Our regulations do not contemplate the unwarranted piecemeal presentation or development of protest issues. Little Susitna Company, *supra*, 65 Comp. Gen. at 653-654, 86-1 CPD ¶ 560 at 3-4; TLM Marine, Inc., B-226968, July 29, 1987, 87-2 CPD ¶ 111.

PBE states that it was unaware of its new grounds until it received Century's bid documents with the Navy report. Bid openings are public and interested parties "shall be permitted" to examine bids in accordance with FAR § 14.402-1(c) (FAC 84-5). In light of PBE's permission to examine all bids submitted and its awareness that Century had not signed its bid bond, we find that it knew or should have known of the other grounds and should have protested on those bases in a timely fashion. Any ignorance on PBE's part is attributable to its waiting for the agency report instead of diligently seeking information regarding possible bases for protest. See Delaware Eastwind, Inc., B-228533, Nov. 18, 1987, 87-2 CPD ¶ 494.

The protest is denied in part and dismissed in part.


James F. Hinchman
General Counsel